

EXHIBIT “5”



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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

BEDROC LIMITED, LLC,)
)
Plaintiff,)
)
v.)
FIREWORKS BY GRUCCI, INC.,)
)
Defendant.)
_____)

CASE NO. 2:21-cv-00936
RFB-BNW

VIDEOCONFERENCE DEPOSITION OF

FELIX JAMES GRUCCI

BELLPORT, NEW YORK

TUESDAY, JULY 26, 2022

Reported By Kele R. Smith, NV CCR No. 672, CA CSR No.
13405
Job No. 895201

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14:05:05

1 Are you there?

14:05:06

2 A. I'm there. I'm on Page 2.

14:05:09

3 Q. Perfect. I'd like to direct your attention to

14:05:12

4 Paragraph 14 at the bottom of the page.

14:05:17

5 A. Uh-huh. I'm there.

14:05:19

6 Q. Okay. This section is called "Integration;

14:05:26

7 Replacement Agreement." It says, "It is agreed and

14:05:29

8 understood that this agreement contains all agreements,

14:05:33

9 promises, and understandings between landlord and

14:05:37

10 tenant, supersedes any prior agreements, and that no

14:05:42

11 verbal or oral agreements, promises, or understandings

14:05:45

12 shall be binding upon either landlord or tenant in a

14:05:50

13 dispute." Did I read that correctly?

14:05:53

14 A. Yes.

14:05:53

15 Q. Were there any verbal or oral agreements made by

14:06:00

16 my client?

14:06:06

17 A. Only the agreement to continue. Maybe I should

14:06:11

18 say the agreement to continue is one I can think of.

14:06:15

19 Q. Okay. Did my client agree to waive any rights it

14:06:22

20 had under this contract?

14:06:23

21 A. No.

14:06:27

22 MR. HAYES: I'm just going to object. Vague and

14:06:30

23 ambiguous, calls for a legal conclusion, calls for

14:06:33

24 speculation.

14:06:33

25 But you may answer.

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14:38:21 1 A. We didn't measure it, but based on the drawings
14:38:26 2 that I saw of the various documents, which all were
14:38:32 3 somewhat consistent, I have no reason to dispute it.

14:38:36 4 **Q. Were there any burned areas of the property at**
14:38:43 5 **the time you took possession of the lease?**

14:38:45 6 A. Not that I'm aware of.

14:38:47 7 **Q. But there were burned areas at the conclusion of**
14:38:50 8 **the lease on my client's property. Correct?**

14:38:53 9 A. Correct. All -- all inside the fallout area,
14:38:56 10 yes.

14:38:57 11 **Q. Just to make sure I remember your testimony from**
14:39:14 12 **earlier today, you've never seen a fire this large that**
14:39:18 13 **you saw that night at my client's property in all of**
14:39:21 14 **your years of fireworks presentations. Right?**

14:39:25 15 A. The land itself?

14:39:28 16 **Q. Correct.**

14:39:29 17 A. With the exception of the project that was not
14:39:34 18 under our license in Athens, I don't believe I've ever
14:39:43 19 seen something that's bigger than that. That I've seen
14:39:48 20 or I'm aware of with my company too, so...

14:39:59 21 **Q. I'm sorry. If you were clarifying something, I**
14:40:02 22 **couldn't hear you. One more time.**

14:40:05 23 A. No, I said there's no -- there's no other program
14:40:06 24 that I can -- I can think of that had a fire that was
14:40:08 25 bigger than that and I don't -- I can't recall another

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14:40:16 1 show where there would have been a fire bigger than that
14:40:20 2 on the -- you know, on the property.

14:40:23 3 Q. Did Grucci take any steps to repair the property?
14:40:28 4 And specifically I'm talking about the fire damage.

14:40:31 5 A. No.

14:40:32 6 Q. Okay. Did Grucci attempt to obtain quotes to
14:40:39 7 remediate the fire damage?

14:40:41 8 A. Yes.

14:40:42 9 Q. What did Grucci do to obtain quotes to remediate
14:40:52 10 the fire damage?

14:40:53 11 A. I think we -- I think we -- we obtained the
14:40:54 12 quotes from two vendors or we -- we started to try. It
14:40:58 13 was during COVID and Larry was having a hard time
14:41:01 14 getting them to respond, so they were wanting someone to
14:41:05 15 come out and take a look at it. But I think at the
14:41:08 16 end -- maybe we didn't. You know, frankly speaking,
14:41:10 17 maybe we did not. I think the two quotes came from
14:41:14 18 Bedroc because we were unsuccessful in getting the
14:41:19 19 quotes.

14:41:19 20 Q. So Grucci did attempt to get quotes, at least, to
14:41:24 21 remediate the property. Right?

14:41:25 22 A. We did. We were asked to get them, so we
14:41:28 23 attempted to get them.

14:41:29 24 Q. With the idea that Grucci would remediate the
14:41:33 25 fire damage. Is that right?

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15:08:45 1 BY MR. EDWARDS:

15:08:46 2 Q. Was it ever put in writing to the effect that
15:08:49 3 Grucci is not responsible for fire damage within the
15:08:52 4 fallout area?

15:08:53 5 A. To my knowledge, no.

15:09:01 6 Q. You recall the insurance obligations set forth in
15:09:12 7 the lease that we've already gone over. Right?

15:09:14 8 A. Yes.

15:09:15 9 Q. Is there any exception in that lease obligation
15:09:19 10 with regard to a fire within the fallout area?

15:09:24 11 MR. HAYES: Calls for speculation, calls for a
15:09:26 12 legal conclusion, vague and ambiguous.

15:09:28 13 You may respond.

15:09:31 14 A. Not to my knowledge. I don't think there's an
15:09:34 15 exception to that.

15:09:35 16 BY MR. EDWARDS:

15:10:00 17 Q. Okay, can you turn, please, to Tab 0.

15:10:16 18 MR. EDWARDS: And I believe, Madam Court
15:10:17 19 Reporter, this is going to be Exhibit 5. Please correct
15:10:20 20 me if I'm getting my numbers off.

15:10:23 21 THE REPORTER: You're correct.

15:10:25 22 A. I have the tab open.

15:10:26 23 BY MR. EDWARDS:

15:10:27 24 Q. This is a report from our contractor estimating
15:10:32 25 the amount it's going to cost to remediate my client's

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1 CERTIFICATE OF REPORTER


2 STATE OF NEVADA)
3) ss:
4 COUNTY OF CLARK)

5 I, KELE R. SMITH, a Certified Court Reporter in
6 Clark County, State of Nevada, do hereby certify: That
7 I reported the taking of the deposition of FELIX JAMES
8 GRUCCI, commencing on Tuesday, July 26, 2022, at 1:03
9 p.m.

10 That prior to being deposed, the witness was by
11 me duly sworn to testify to the truth, that I thereafter
12 transcribed my said shorthand notes into typewriting, and
13 that the typewritten transcript is a complete, true, and
14 accurate transcription of said shorthand notes and that
15 the witness was asked to review and correct the
16 transcript.

17 I further certify that I am not a relative or
18 employee of counsel of any of the parties, nor a
19 relative or employee of the parties involved in said
20 action, nor a person financially interested in the
21 action.

22 IN WITNESS WHEREOF, I have set my hand in my
23 office in the County of Clark, State of Nevada, this
24 10th day of August, 2022.

25 
KELE R. SMITH, NV CCR #672, CA CSR #13405